

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROBERT FEY, as an individual,

Plaintiff,

v.

AURIGA/AURORA GENERAL
PARTNERSHIP

Defendant.

IN LAW AND ADMIRALTY

Case No. 2:19-cv-01793-TSZ

**ANSWER TO COMPLAINT AND
AFFIRMATIVE DEFENSES OF
DEFENDANT AURIGA/AURORA
GENERAL PARTNERSHIP**

FOR ANSWER to Plaintiff's Complaint, Defendant Auriga/Aurora General Partnership ("Answering Defendant"), by and through its counsel of record, responds and alleges as follows:

1.1. The allegations in this paragraph appear to present questions of law for the Court's determination to which no affirmative response appears required from Answering Defendant. Answering Defendant does not contest this Court's jurisdiction over this matter.

2.1. Admitted.

2.2. Admitted.

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{29126-00574501;1}

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1 2.3. Admitted for purposes of the Jones Act that Answering Defendant employed Plaintiff
2 as a seaman on F/V AURORA at relevant times. The remaining allegation in this paragraph
3 is duplicative of paragraph 2.2. Except as specifically admitted, the allegations in this
4 paragraph are denied.

5 2.4. Answering Defendant observes that the first clause in this paragraph is duplicative of
6 allegations in 2.2 and 2.3. In response to the remaining allegations, Answering Defendant is
7 not aware of Plaintiff's intended meaning of the term "managed and/or operated" F/V
8 AURORA, however, admits as stated above that Answering Defendant owned the vessel and
9 contracted with her crew including Plaintiff to perform duties necessary for the vessel's
10 intended operations, and to that extent only the remaining allegations in this paragraph are
11 admitted.

12
13 3.1. Denied.

14 3.2. Admitted.

15 3.3. Admitted.

16
17 3.4. Admitted that when the master link broke, Plaintiff's leg was in the bight of a line
18 attached to the gear, which line tightened on Plaintiff's leg. Except as specifically admitted,
19 the allegations in this paragraph are denied.

20 3.5. Admitted, subject to peril of the sea.

21
22 3.6. The allegations in this paragraph appear to present questions of law for the Court's
23 determination to which no affirmative response appears required from Answering Defendant.

1 To the extent a response may be required, Answering Defendant denies the F/V AURORA
2 was unseaworthy in connection with Plaintiff's alleged injury.

3 3.7. Denied.

4 3.8. Denied.

5 3.9. Admitted.

6 3.10. Denied.

7 3.11. Denied.

8 4.1. Denied.

9 4.2. Denied.

10 5.1. The allegations in this paragraph appear to present questions of law for the Court's
11 determination to which no affirmative response appears required from Answering Defendant.
12 To the extent a response may be required, Answering Defendant denies the allegations in this
13 paragraph.

14 6.1. Denied.

15 7.1. The allegations in this paragraph appear to present questions of law for the Court's
16 determination to which no affirmative response appears required from Answering Defendant.
17 To the extent a response may be required, Answering Defendant alleges that Plaintiff has
18 received all maritime benefits to which he may be entitled, and is not aware that Plaintiff has
19 claimed otherwise.
20
21
22
23

1 8.1. The allegations in this paragraph appear to present questions of law for the Court's
2 determination to which no affirmative response appears required from Answering Defendant.

3 Deny Prayer for Relief.
4

5 BY WAY OF FURTHER ANSWER, and for its Affirmative Defenses, Answering
6 Defendant states:

7 1. Plaintiff has failed, in whole or in part, to state a claim upon which relief can be
8 granted.

9
10 2. Plaintiff's claims should be barred or his damages reduced on account of Plaintiff's
11 own comparative fault.

12 3. Plaintiff's claims are barred by his own breach of his primary duty as bosun of F/V
13 AURORA.

14
15 4. Plaintiff's claims are barred on account of his alleged injuries resulting from a peril of
16 the sea.

17 5. Plaintiff has failed to take reasonable steps to mitigate his damages.

18
19 6. Plaintiff has received all no fault general maritime benefits to which he may be
20 entitled.

21 7. Answering Defendant is contractually entitled to set off for advances tendered to
22 Plaintiff at Plaintiff's request.

23 8. Allegations in Plaintiff's Complaint lack evidentiary support, to wit, paragraph 3.11.

9. Answering Defendant reserves the right to add such other affirmative defenses as discovery may reveal.

WHEREFORE, having answered Plaintiff's Complaint and stated its Affirmative Defenses, Answering Defendant requests the following relief:

1. That Plaintiff's Complaint be dismissed with prejudice and that Plaintiff take nothing thereby.
2. That Answering Defendant's costs and attorneys' fees be taxed against the Plaintiff.
3. For such other relief as the Court may deem just and equitable.

DATED this 6th day of January, 2020.

LE GROS BUCHANAN & PAUL

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By: s/ Nathan J. Beard

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GENERAL PARTNERSHIP

CERTIFICATE OF SERVICE

The undersigned certifies that on this day she caused to be served in the manner noted below, a copy of the document to which this certificate is attached, on the following counsel of record:

Joseph S. Stacey

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☒ Via E-Service through E-File

☐ Hand Delivery

☐ E-mail

☐ U.S. Mail

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct this 6th day of January, 2020.

s/ Jennifer Bond

Jennifer Bond, Legal Assistant

Signed at Anacortes, Washington